

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
LARRY GRIBLER, suing both individually and as:
controlling shareholder of THREE AMIGOS SJL INC.:
d/b/a CHEETAHS GENTLEMENS CLUB &:
RESTAURANT, :

Plaintiff, :

-against- :

SHIRELL WEISBLAT a/k/a SHIRELL WEISBLAT, :
CHARLES WEISBLAT, CHARLIE CASANOVA, INC. :
SELIM ZHERKA a/k/a SAM ZHERKA, STEVE :
ASLAND, a/k/a MEHLER & BUSCEMI. :

Defendants. :
----- X

Index No.: 1:2007cv11436

**Assigned to: Hon. Naomi Reice
Buchwald**

PLEASE TAKE NOTICE that upon the attached Affidavit of A. Michael Furman, Esq., sworn to on the 22nd day of January 2008, the exhibits annexed thereto, the annexed Affidavit of Martin Mehler, Esq., sworn to on January 21, 2008, the accompanying Memorandum of Law, and all other pleadings and proceedings herein, defendant MEHLER & BUSCEMI by its attorneys KAUFMAN BORGEESE & RYAN LLP will move this Court before the Hon. Naomi Reice Buchwald, United States District Court, Southern District of New York, Daniel Patrick Moynihan United States Courthouse 500 Pearl Street, New York, NY 10007-1312 on the 21st day of February 2008, at 9:30 a.m., or as soon thereafter as counsel can be heard, for an Order dismissing plaintiff's Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure on the grounds that: (a) Plaintiff has failed to plead and/or establish that Mehler &

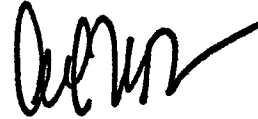
Buscemi was the proximate cause of any actual and ascertainable damages; (b) the plaintiff seeks relief that the Movant cannot provide; (c) the plaintiff has failed to set forth a claim of fraud and/or conspiracy to commit fraud; and (4) the plaintiff has failed to establish an entitlement to punitive damages, as a matter of law. The Movants further seek the dismissal pursuant to Federal Rule 9(b) as the plaintiff has failed to plead his claim for conspiracy to commit fraud with requisite particularity.

Dated: New York, New York
January 22, 2008

Respectfully submitted,

KAUFMAN BORGEEST & RYAN LLP

By: _____



A. Michael Furman, Esq.
Attorneys for Defendant
MEHLER & BUSCEMI
99 Park Avenue
New York, New York 10016

To: Paul J. Giacomo, Esq.
Attorneys for Plaintiff
405 Lexington Avenue, 37th Floor
New York, New York 10174

Jonathan Lovett, Esq.
Lovett & Gould LLP
Attorneys for Shirell Weisblat, Charles Weisblat
Charlie Casanova, Inc., Selim Zherka and Steven Asland
222 Bloomingdale Road
White Plains, New York 10605